

TOWN OF WESTFORD

PLANNING BOARD

MINUTES

DATE: October 6, 2003

TIME: 7:30 P.M.

PLACE: Westford Academy Choral Room

PRESENT: Peter Fletcher, Michael Green, Robert Shaffer, Fred Palmer

ABSENT: Andrea Peraner-Sweet

OTHERS

PRESENT: Tim Greenhill-Town Planner, Norman Khumalo-Assistant Town Manager, Jim Arsenault-Town Engineer, Audience Members

OPEN FORUM

Picking Farms – Dave Guthrie of Wescon Construction was present to provide a status report of the ongoing construction on Lindsay Lane pursuant to the Board's request on September 15, 2003. Guthrie reported that the landscaping plans are proceeding and the loaming and stone trails are completed. A stone mason is scheduled to be on the site later this week to complete the wall. Tree plantings and hydroseeding will be done in the near future. Guthrie estimated that the project would be complete by next week. Guthrie and Arsenault discussed the proposed paving. Fletcher suggested that the Town Engineer meet with the representatives of Wescon on the site to discuss drainage issues. Guthrie estimated that the paving would be completed by the end of October. Chris Gillette, 6 Lindsay Lane, stated that he would like to get the road completed this year. Gillette pointed out that last year there was considerable water building up in front of his lot. Gillette requested that the drainage be corrected to alleviate the icing problems during the winter months and runoff from his property.

Chestnut Hill Estates Update – Dan Linscott, Chestnut Hill Estates, was present to update the Board on the outstanding issues. Linscott reported that Town Counsel and his counsel worked out an escrow agreement and the lot was released last week. Linscott stated that the lot is scheduled for closing on Tuesday, October 7, 2003 with funding being released at that time. Linscott reported that they have been rebuilding stonewalls, shoulder work rebuild, line and grade control, etc. Linscott reported on his meeting this morning with the Highway Superintendent, the Town Engineer, the Town Planner and the Assistant Town Manager. Linscott indicated that while he does not agree with the Highway Superintendent, he will complete the road according to Town standards. Linscott estimated that trees would be planted this week. Linscott stated that he would have to get back on the paver's schedule and hoped to have the paving completed by November 15th. Linscott expressed concerns regarding water coming from the foundation drains on some of the lots. Fletcher stated that those residents with the foundation drains should be contacted by the Building Inspector to discuss easement agreements with the Town. Linscott was concerned that effluent may be coming out of the leach field with the groundwater. Greenhill reported that the Board of Health has been notified. Shaffer was concerned with the potential for arsenic leaching into the Town's roadway drainage system. Linscott and the Board discussed a retaining wall in the right-of-way associated with a septic system. Fletcher stated that an easement is needed for the retaining wall from the builder and/or the homeowner. Shaffer asked how the Board could be more involved prior to the issuance of occupancy permits relative to surveys, grading, as-built plans, etc. Shaffer suggested sending a letter to the Board of Health regarding the Board's concerns relative to impinging on the right-of-way. Shaffer also suggested dialogue with the Board of Health and the Planning Board for a process that allows for proper review at the time of the granting of the occupancy permit. Linscott to provide to Staff a schedule relative to the sidewalk installation. The Board asked Greenhill to invite the builder, OHC, to the next meeting. Linscott also discussed with the Board the roadway alignment. Linscott reported that his engineers are preparing a plan laying out the center line of the roadway. Shaffer stated that it is important that the Town's 50 ft. right-of-way bounds are not in dispute.

PUBLIC HEARING – LIVING LABS @ NORMAN E. DAY SCHOOL – SITE PLAN REVIEW

Westford Public Schools, Continued from September 15, 2003

Continued to November 3, 2003 at 7:40 p.m.

PUBLIC HEARING – LAWTON AVENUE – DEFINITIVE SUBDIVISION – SPECIAL PERMIT – COMMON DRIVEWAY

Mary-Anne Finnegan, Continued from September 2, 2003

Continued to November 3, 2003 at 7:41 p.m.

ANR – 7 PLEASANT STREET (ABBOT MILL)

Courier New Media, Inc. & Abbot Mill, LLC

Fletcher directed Greenhill to contact the applicant and ask them to withdraw and resubmit the ANR plan due to the time limitations.

ANR – 18 SNOW DRIVE

J. Zoost and A.P. Deschamps

The Board believed that the applicant needed to go before the Zoning Board of Appeals for Variances relative to frontage and setbacks. The buyer of the property stated that Attorney Paul Alphen told him that variances were unnecessary for this lot. **It was moved by Green, seconded by Shaffer, and VOTED 4 IN FAVOR WITH 1 ABSENT (Peraner-Sweet), to endorse the plan for 18 Snow Drive contingent upon the Zoning Enforcement Officer making proper determination of compliance.** Attorney Paul Alphen appeared at the meeting after the vote. Fletcher asked Alphen for clarification regarding the grandfathering of the lot. Alphen stated that the area is not the nature of the non-conformity. The non-conformity has to do with the frontage. Alphen stated that he would provide information to the Permitting Office clarifying his position as to the non-conformity issue.

DISCUSSION ITEM – DRAFT CHANGES TO SUBDIVISION RULES AND REGULATIONS

Discussion item on draft rules and regulations

Arsenault submitted for the Board's review a draft of the recommended changes entitled *Proposed Planning Board/ Subdivision Changes 2003 and Traffic Study Manual*. The Board asked Arsenault to look into tying into the standard the period of time for a baseline measurement relative to retaining walls. Shaffer asked for some type of standardization regarding the types of walls. The Board suggested that the name of the Traffic Study Manual be changed.

PUBLIC HEARING – WESTFORD TECH PARK WEST – SITE PLAN REVIEW – SPECIAL PERMIT

Westford West Realty Trust (Gutierrez)

Continued to November 3, 2003 at 7:42 p.m.

MISCELLANEOUS:

Performance Bonds/Items for Signature

Juneberry Lane – Bond Release – Greenhill reported that he received a request for a bond reduction on Juneberry Lane. Greenhill further reported that Highway and Engineering Departments have reviewed and signed the Form G. **It was moved by Green, seconded by, Shaffer, and VOTED 4 IN FAVOR WITH 1 ABSENT (Peraner-Sweet), to reduce the bond amount for Juneberry Lane, Station 0+00 to 10+05, release a bond in the amount of \$148,562.83 leaving a remaining bond of \$129, 337.17.**

Greystone Estates Turtle Bridges – Bond Release – Arsenault reported that LANDTECH Consultants have requested a release of the bond for the Greystone turtle bridges. Arsenault also reported that the Highway Superintendent has confirmed that significant inspections of turtle bridges indicated that the work has been completed. Arsenault referenced his report dated September 26, 2003 regarding the bridges. **It was moved by Green, seconded by Shaffer, and VOTED 4 IN FAVOR WITH 1 ABSENT (Peraner-Sweet), to release the bond for Greystone Estates turtle bridges, release a bond in the amount of \$20,373.53, leaving a remaining balance of \$0.00.**

Getty Station, 54 Brookside Road – Bond Establishment – Shaffer asked that the applicant be aware and agree to the Board's performance criteria relative to the bond. Fletcher asked Staff to prepare an instrument for the Board's review at the next meeting which spells out how the Board will release the bond. **It was moved by Shaffer, seconded by Green, and VOTED 4 IN FAVOR WITH 1 ABSENT (Peraner-Sweet), to establish a bond in the amount of \$47,500 for the Getty Station, to be held as a bond with United Casualty and Surety Insurance Company.**

MAILBOX

Letter to from Planning Department regarding trail easements at Misty Lane and Jenny Richards Road – Khumalo reported that the Board of Selectmen may be discussing this matter at their next meeting.

Letter from Planning Department dated September 23, 2003 regarding Westford Auto Sales – Emily Teller, Texas Road, expressed concerns regarding lighting on the site. Shaffer suggested that Teller make her comment to the Board of Selectmen.

PUBLIC HEARING – KIMBALLS – SITE PLAN AMENDMENT ***400 Littleton Road, Michael S. Kimball***

It was moved by Green, seconded by Shaffer, and VOTED 4 IN FAVOR WITH 1 ABSENT (Peraner-Sweet), to open the public hearing.

Attorney Paul Alphen was present for the applicant. Alphen stated that in 1999 the Planning Board approved a site plan for the Kimball property on the southerly side of Littleton Road for the so-called "Kimball Grille". Alphen

stated that along with the grill there are two seasonal tents and a storage building. The proposed storage building has not been constructed as yet. Alphen stated that the applicant has proposed making the storage building larger than that which was proposed (26' x 40') in the 1999 site plan approval. The applicant now proposes building a 30' x 80' storage building in approximately the same location (behind the grill building). Alphen stated that the storage building will be used for some food preparation because the purpose of the building is for the storage of food that is used in the grill operation. Alphen indicated that the applicant has discussed the necessary permits with the Board of Health. Alphen stated that the property benefits from a Use Variance from the Zoning Board of Appeals. Alphen stated that there would be no customers entering the building. Alphen requested amending the 1999 site plan to construct a 30' x 80' storage building. The Board was interested in the height and exact location of the building. Fletcher asked that the applicant provide a rendering or sufficient description of the proposed building design and the type of foundation. Green asked what utilities will be used in the proposed building and whether the applicant will have a walk-in cooler. The Board also asked for a more information regarding the food preparation component, external lighting, how food will be transported to the building and the setbacks from the other buildings. Green also asked for the long term plans for the site. There was no input from the floor. Continued to October 20, 2003 at 8:01 p.m.

MINUTES

It was moved by Shaffer, seconded by Palmer, and VOTED 4 IN FAVOR WITH 1 ABSENT (Peraner-Sweet), to approve the minutes of September 15, 2003.

WARRANT ARTICLE – BYLAW PROPOSALS – WARRANT ARTICLE FOR SPECIAL TOWN MEETING ON NOVEMBER 4, 2003

Industrial and Commercial Growth Management, WENAC

It was moved by Shaffer, seconded by Palmer, and VOTED 4 IN FAVOR WITH 1 ABSENT (Peraner-Sweet), to open the public hearing.

Peter Ewing, 21 Old Homestead Road, petitioner was present. Ewing introduced Peter Severance, Ed Thomas, Tom Spuhler, and Lenny Palmer. Ewing made a presentation of the proposed Industrial and Commercial Growth Management Bylaw. Shaffer was concerned that the bylaw forces the buildings to become multi-storied. Shaffer was also concerned with increased lighting. Shaffer pointed out that the proposed bylaw does not reduce the impact on the site in the long run but could potentially have more building that are smaller with more surface area that emanates light. Shaffer asked the petitioners if they considered lighting and how they would address it because from a light pollution perspective there is now negative impacts to the environment. Ewing stated that they have not looked at lighting impacts and are seeking guidance from the Planning Board to improve the bylaw. Shaffer asked the petitioners to provide some analysis. Spuhler presented the charts and analysis data.

Shaffer wanted to know the impact of the zoning change on the market. Shaffer was concerned that if the bylaw stops a developer on a large parcel a 40B project could be constructed. Shaffer was concerned with the financial impact to the Town with a large 40B project.

Marian Harman, 10 Chamberlain Road, stated that 40B projects are the most damaging thing that has happened to Westford in the past few years. Harman felt it was shocking in terms of the amount the density that is coming in with very little the Town can do about it. Harman felt that this bylaw is attempting to address some problems of overcrowding in town. Harman asked if the petitioners would consider adding another exemption for putting in a certain amount of affordable housing. Harman felt that this exemption would be effective because the affordable housing now being put in is associated with large subdivisions usually and therefore every step the town takes forward in trying to get the $\frac{3}{4}$ of 1% per year of affordable housing the town actually takes a step back because there are many more market priced houses.

Green asked the petitioners to review the footprint and building sizes in relation to major retail projects. Green suggested the petitioners consider folding this bylaw into the existing Planned Commercial Development and Planned Industrial Development bylaws that have been in existence for some time to strengthen those bylaws. Green asked for more information regarding the exemptions. Green was concerned that the bylaw would be restrictive for multi-tenant small business owners in a larger retail complex. Green felt that there were conflicting goals.

Palmer felt that if this bylaw was in effect in 1987 the Town would be in the same situation relative to traffic. Palmer was not sure that the bylaw would slow down traffic. Spuhler outlined a chart of future potential development and car trips.

Paul Alphen, Boutwell Hill Road, asked if the proponents were able to reconcile their proposal with the 2002 Land Court case that found the Hadley building permit limitation bylaw to be unconstitutional. Ewing asked Alphen for more information regarding the Land Court case. Alphen stated that most of the large parcels of land in Westford have been or will be grandfathered by the submission of subdivision plans. Alphen stated that he knew of several subdivision plans that will be submitted to the Planning Offices between now and November 4th. Alphen asked if the properties that are protected by zoning freezes have first choice on available building permits, is there a potential for small property owners who did not freeze their zoning to be locked out and be unable to get any building permits if the cap is set at a certain amount per year regardless of whether the building permit is issued to people who have grandfathered rights or do not have grandfathered rights.

Jack Mitchell, 5 Boutwell Hill Road, owner of a plastics business, stated that building footprints for his type of business are usually 100,000 sq. ft. Mitchell was concerned with the restrictions on future expansion and the impact to his business. Ewing asked if State law allows for a developer to go to Town Meeting for a decision. Fletcher stated that a developer could go to the Zoning Board of Appeals. Mitchell stated that he would not look to expand in Westford with these types of restrictions. Mitchell urged the proponents to look at all of the ramifications of the bylaw.

Ellen Harde, Town Moderator, outlined the process for the petition article at Town Meeting.

Wade Fox, 35 Hartford Road, stated that he worked on the committee for the residential growth management bylaw. Fox felt that the existing bylaws help to mediate or moderate the problems that are going to arise after a development is approved. Fox asked that the Planning Board work with the proponents to guide them to put together a proposal for Town Meeting action. Fox stated that there are concerns regarding traffic in different areas of town.

Khumalo stated that there is no language in the bylaw which gives preference to small businesses as stated by the proponents. Ewing stated that businesses of 50,000 sq. ft. or less would have no limitations on getting a building permit. Ewing felt that this bylaw would not impact those businesses. Khumalo asked for clarification regarding the grandfathering issues, the explanation of why the Town needs this bylaw, how this bylaw ties into the performance standards for Special Permit projects, and how this bylaw will work from a land use planning point of view. Khumalo suggested that the proponents speak to landowners who may be impacted by this proposal. Khumalo also suggested that the proponents review the consistency between the proposed regulation with what the Town currently has approved in the Master Plan specifically with regard to the ratio between commercial taxes and residential taxes.

Bill Harman, 10 Chamberlain Road, questioned whether the term “open space” was clearly defined regarding the commercial district. Harman was concerned that if this bylaw is approved a developer will dedicate only wetlands to the open space and those wetlands being fragmented rather than being unified.

Fletcher stated that the Town needs to focus on the infrastructure and the different things that cause problems with the infrastructure, i.e., transportation, utilities, way of life, etc. Fletcher recommended setting up performance standards to address infrastructure impacts.

Continued to October 2, 2003 at 8:15 p.m.

ADJOURNMENT

It was moved by Shaffer, seconded by Green, and VOTED UNANIMOUSLY, to adjourn the meeting.

